

**STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

**Before the Commissioner of the Office of Financial and Insurance Services**

**In the matter of:**

Cynthia L. Gutierrez  
dba C.G. Auto Underwriters

Enforcement Case No. 05-3166

License No. 379-62-6274

Respondent

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*Issued and entered  
on this 29th day of November 2005  
by Linda A. Watters  
Commissioner*

**CONSENT ORDER AND STIPULATION**

**A. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

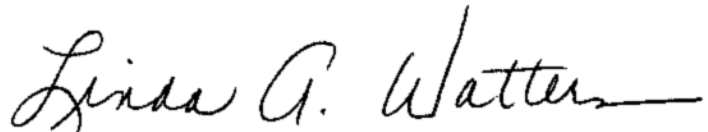
1. At all pertinent times, Cynthia L. Gutierrez dba C.G. Auto Underwriters (Respondent), was a licensed resident producer, authorized to transact the business of insurance in this state.
2. As a licensed resident producer, Respondent knew, or had reason to know, that Section 1207(1) of the Code requires an agent to act as a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.
3. On January 27, 2005, the Office of Financial and Insurance Services ("OFIS") received a cancelled for cause letter pertaining to Respondent from Thomas P. Specht, Director of Titan Insurance ("Titan").
4. OFIS learned that Respondent had contacted Mr. Tim Gallagher, Titan's Marketing Representative, by telephone and informed him that she failed to remit all of the forty-two (42) applications and premiums collected during November and December of 2004. Respondent informed Mr. Gallagher that she misappropriated \$5,700 in premiums.

5. On December 20, 2004, Mr. Gallagher visited C.G. Auto Underwriters to retrieve the forty-two (42) applications, which were completed during the months of November and December of 2004.
6. As a result of the above actions, on February 24, 2005, Titan cancelled Respondent's Agent Appointment for breach of contract and breach of fiduciary duty of trust.
7. By failing to timely remit premium monies to the company to whom they are owed, Respondent has failed to act as a fiduciary in violation Section 1207(1) of the Code and is subject to licensing sanctions and civil penalties under Section 1239 and 1244 of the Code

### **B. ORDER**

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is **ORDERED** that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate Section 1207(1) of the Code.
2. Respondent's license(s) and authority are suspended for one (1) year, beginning on the date of entry of this order. During the period of suspension, Respondent may service existing policies for which she is the producer of record, however, Respondent may not solicit or sell new policies or perform any other acts that require an active insurance producer license.
3. Respondent shall complete a total of 16 hours of continuing education classes in agent ethics and responsibilities, and agency management issues.
4. Respondents shall pay to the State of Michigan, through the Office of Financial and Insurance Services, a five hundred dollar (\$500.00) civil penalty within 30 days of the date of entry of this Order.



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Linda A. Watters  
Commissioner